



Department of Justice

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JUSTICE DEPARTMENT SETTLES LAWSUIT WITH SUIZA FOODS CORPORATION AND BROUGHTON FOODS

Divestiture of Southern Belle Dairy Required

WASHINGTON, D.C. -- The Department of Justice reached a settlement today with Suiza Foods Corporation and Broughton Foods after the companies agreed to sell the entire operation of the Southern Belle Dairy, located in Somerset, Kentucky. The sale of the Southern Belle plant, along with all of its related distribution assets, will maintain the current level of competition for school milk bidding in Kentucky that would have been threatened by the merger.

Today's agreement settles a lawsuit, filed on March 18, 1999, by the Department's Antitrust Division, to block Suiza from acquiring Broughton. The Complaint alleged that the combination of Suiza and Broughton would result in higher prices for milk sold to school districts in Kentucky. The lawsuit identified over 50 school districts across nearly 40 counties in south central Kentucky for which the merger would have reduced the number of school milk bidders from three to two, or created a monopoly for the bids.

"This is a great win for the school children of Kentucky and their families," said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division.

"This divestiture should completely restore the competition for school milk bids that would have been lost by the merger."

According to the Department, school milk bidding has been plagued by a history of collusion that has caused substantial harm to school districts nationwide. To date, the Antitrust Division has prosecuted more than 100 criminal cases involving bid rigging on school milk contracts. In 1992, Kentucky dairies Flav-O-Rich Inc. and Southern Belle Dairy Co. pleaded guilty to criminal antitrust charges, admitting to a 10-year conspiracy to allocate customers and rig bids on school milk contracts across a large portion of Kentucky.

“We were determined to prevent the proposed acquisition from recreating the outcome of higher school milk prices that Kentucky schools suffered as a result of the prior milk bid-rigging conspiracies,” said Klein. “We were committed to the divestiture of the entire dairy operation to restore that competition.”

Under the proposed settlement agreement, Suiza and Broughton are required to divest the Southern Belle Dairy within six months. The Department also has required that Southern Belle Dairy be held and operated separately from Suiza’s other business. This provision will help ensure that schools receive the benefits of competitive bids during the upcoming 1999-2000 bidding season for milk contracts.

As required by the Tunney Act, the proposed consent decree, along with the Department’s Competitive Impact Statement, will be published in the Federal Register. Any person may submit written comments concerning the proposed decree during a sixty-day comment period to Craig Conrath, Chief; Merger Task Force; Antitrust Division; U.S.

Department of Justice; 1401 H Street, NW, Suite 4000; Washington, D.C. 20530. At the conclusion of the comment period, the Court may enter the consent decree upon a finding that it serves the public interest.

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